IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.E.A. No.112 of 2006
Date of decision: October 13, 2006

Commissioner, Central Excise Commissionerate, Chandigarh.

-----Appellant

Vs.

M/s Him Cableways, Chandigarh.

-----Respondent

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE RAJESH BINDAL

Present: Mrs. Daya Chaudhary, Assistant Solicitor General of India
for the appellant.

ORDER:

This appeal has been preferred by the revenue proposing following substantial questions of law:-

> "Whether the manufacturer of final products is entitled to deemed credit, when the manufacturer-supplier of inputs has not paid Central Excise duty and (the) on the body of invoices it has been mentioned that 'Excise Duty liability to be discharged under Rule 96 ZP(3) by the manufacturer/supplier of inputs and basic condition of Notification No.58/97-CE dated 30.08.1997 has not been met with."

Learned counsel for the revenue is unable to dispute that the issue has been gone into by this Court earlier in CEA No.8 of 2005 **(Commissioner, Central Excise Commissionerate, Chandigarh v. M/s Regency Industrial Corporation, Mandi Gobindgarh)**, decided on 21.8.2006, wherein, following earlier order of this Court in **Vikas Pipe v. Commissioner of C.EX.,Chandigarh-II**, 2003 (158) ELT 680, it was held that the assessee will be entitled to benefit of Notification No.58/97-CE(NT) dated 30.8.1997 in respect of deemed Modvat credit, irrespective of proving discharge of liability by manufacturer/supplier of the inputs.

Accordingly, this appeal is dismissed.

(ADARSH KUMAR GOEL)
JUDGE

October 13, 2006
ashwani

(RAJESH BINDAL)
JUDGE